

# Senate Amendment 5275

PAG LIN

1 1 Amend House File 2440, as amended, passed, and  
1 2 reprinted by the House, as follows:  
1 3 #1. By striking everything after the enacting  
1 4 clause and inserting the following:  
1 5 NEW SECTION. 507F.1 CONSUMER  
1 6 ADVOCATE ON INSURANCE == APPOINTMENT == POLITICAL  
1 7 ACTIVITY == REMOVAL.  
1 8 1. The attorney general shall appoint a competent  
1 9 attorney to the office of consumer advocate on  
1 10 insurance. The appointment is subject to senate  
1 11 confirmation in accordance with section 2.32. The  
1 12 advocate's term of office is for four years. The term  
1 13 begins and ends as set forth in section 69.19.  
1 14 2. If a vacancy occurs in the office of consumer  
1 15 advocate on insurance, the vacancy shall be filled for  
1 16 the unexpired term in the same manner as an original  
1 17 appointment.  
1 18 3. The consumer advocate on insurance shall devote  
1 19 the advocate's entire time to the duties of the  
1 20 office. During the advocate's term of office the  
1 21 advocate shall not be a member of a political  
1 22 committee, shall not contribute to a political  
1 23 campaign fund other than through the income tax  
1 24 checkoff for contributions to the Iowa election  
1 25 campaign fund and the presidential election campaign  
1 26 fund, and shall not take part in political campaigns  
1 27 or be a candidate for a political office.  
1 28 4. The attorney general may remove the consumer  
1 29 advocate on insurance for malfeasance or nonfeasance  
1 30 in office, or for any cause which renders the advocate  
1 31 ineligible for appointment, or incapable or unfit to  
1 32 discharge the duties of the advocate's office. The  
1 33 advocate's removal, when so made, is final.  
1 34 5. The office of consumer advocate on insurance  
1 35 shall be limited to regulating insurance markets in  
1 36 Iowa deemed noncompetitive by the commissioner of  
1 37 insurance.  
1 38 Sec. 2. NEW SECTION. 507F.2 DUTIES.  
1 39 The office of the consumer advocate on insurance  
1 40 shall:  
1 41 1. Adopt rules pursuant to chapter 17A and perform  
1 42 other duties necessary to the administration of this  
1 43 chapter.  
1 44 2. Investigate the legality of all rates, charges,  
1 45 rules, regulations, and practices of all persons  
1 46 within the purview of the office of the consumer  
1 47 advocate on insurance, and institute civil proceedings  
1 48 before the insurance division or any court to correct  
1 49 any illegality on the part of any person. In any  
1 50 investigation, the person acting for the office of the  
2 1 consumer advocate on insurance shall have the power to  
2 2 ask the commissioner of insurance to issue subpoenas,  
2 3 compel the attendance and testimony of witnesses, and  
2 4 the production of papers, books, and documents.  
2 5 3. Make recommendations to the general assembly  
2 6 regarding insurance regulation.  
2 7 4. Make recommendations to the insurance division  
2 8 or any other governmental agency which has an impact  
2 9 on insurance regulation in the state through  
2 10 rulemaking and review and, if the advocate deems it to  
2 11 be in the public interest, appeal the rulemaking or  
2 12 contested case decisions of the insurance division or  
2 13 any other governmental agency which has an impact on  
2 14 insurance regulation in the state.  
2 15 5. Represent the interests of the public relating  
2 16 to insurance reform, coverage, and rates where action  
2 17 is necessary for the protection of public rights.  
2 18 6. Institute judicial review of final or  
2 19 interlocutory actions of the insurance division if the  
2 20 review is deemed to be in the public interest.  
2 21 7. Act as attorney for and represent all consumers  
2 22 generally and the public generally in all proceedings  
2 23 before the insurance division, federal and state  
2 24 agencies, and related judicial review proceedings and

2 25 appeals.  
2 26 8. Appear for all consumers generally and the  
2 27 public generally in all actions instituted in any  
2 28 state or federal court which involve the validity of a  
2 29 rule, regulation, or order of the insurance division.  
2 30 9. Appear and participate as a party in the name  
2 31 of the office of consumer advocate on insurance in the  
2 32 performance of the duties of the office.  
2 33 Sec. 3. NEW SECTION. 507F.3 OFFICE == EMPLOYEES  
2 34 == EXPENSES.  
2 35 1. The office of the consumer advocate on  
2 36 insurance shall be located within the office of the  
2 37 attorney general. Administrative support services  
2 38 shall be provided to the consumer advocate by the  
2 39 office of the attorney general.  
2 40 2. The consumer advocate on insurance may employ  
2 41 attorneys, legal assistants, secretaries, clerks, and  
2 42 other employees the consumer advocate on insurance  
2 43 finds necessary for the full and efficient discharge  
2 44 of the duties and responsibilities of the office. The  
2 45 consumer advocate on insurance may employ consultants  
2 46 as expert witnesses or technical advisors pursuant to  
2 47 contract as the advocate finds necessary for the full  
2 48 and efficient discharge of the duties of the office.  
2 49 Employees of the consumer advocate on insurance, other  
2 50 than the advocate, are subject to merit employment,  
3 1 except as provided in section 8A.412.  
3 2 3. The salary of the consumer advocate on  
3 3 insurance shall be fixed by the attorney general  
3 4 within the salary range set by the general assembly.  
3 5 The salaries of employees of the consumer advocate on  
3 6 insurance is as provided by law. The appropriation  
3 7 for the office of consumer advocate on insurance shall  
3 8 be separate line item contained in the appropriation  
3 9 from the general fund of the state to the department  
3 10 of justice.  
3 11 Sec. 4. NEW SECTION. 507F.4 INSURANCE DIVISION  
3 12 RECORDS.  
3 13 The consumer advocate on insurance has free access  
3 14 to all the files, records, and documents in the office  
3 15 of the insurance division except:  
3 16 1. Personal information in confidential personnel  
3 17 records of the insurance division.  
3 18 2. Records which represent and constitute the work  
3 19 product of the general counsel of the insurance  
3 20 division where the records relate to a proceeding  
3 21 before the division in which the consumer advocate on  
3 22 insurance is a party or a proceeding in any state or  
3 23 federal court in which both the division and the  
3 24 consumer advocate on insurance are parties.  
3 25 3. Insurer information of a confidential nature  
3 26 which could jeopardize an insurer's competitive status  
3 27 and is provided by an insurer to the division.  
3 28 However, such information shall be provided to the  
3 29 consumer advocate on insurance by the insurance  
3 30 division, if the division determines it to be in the  
3 31 public interest.  
3 32 Sec. 5. NEW SECTION. 507F.5 SERVICE.  
3 33 The consumer advocate on insurance is entitled to  
3 34 service of all documents required by statute or rule  
3 35 to be served on parties in proceedings before the  
3 36 insurance division and all notices, petitions,  
3 37 applications, complaints, answers, motions, and other  
3 38 pleadings filed pursuant to statute or rule with the  
3 39 division.  
3 40 Sec. 6. NEW SECTION. 507F.6 CONSUMER ADVOCATE ON  
3 41 INSURANCE ADVISORY COMMITTEE.  
3 42 The attorney general shall appoint seven members to  
3 43 a consumer advocate on insurance advisory committee to  
3 44 meet at the request of the consumer advocate on  
3 45 insurance for consultation regarding the protection of  
3 46 public rights in insurance regulation. A member shall  
3 47 be appointed from each congressional district with the  
3 48 appointee residing within the district at the time of  
3 49 the appointment. The remaining appointees shall be  
3 50 members at large. Members shall be appointed which  
4 1 represent the various sectors or the population and  
4 2 appointments shall be made in compliance with sections  
4 3 69.16 and 69.16A. The members shall serve four-year  
4 4 terms and their appointments are not subject to  
4 5 confirmation by the senate. A vacancy shall be filled

4 6 in the same manner as the original appointment for the  
4 7 unexpired portion of the member's term. Members of  
4 8 the committee shall serve without compensation, but  
4 9 shall be reimbursed for actual expenses from funds  
4 10 appropriated to the office of the consumer advocate on  
4 11 insurance.

4 12 Sec. 7. NEW SECTION. 519A.5A RATE INCREASES ==  
4 13 RIGHT OF REVIEW.

4 14 1. An insurer subject to this chapter as a member  
4 15 of the association shall give written notice of a  
4 16 proposed increase of any rate to an affected person  
4 17 sixty days prior to the time an application for a rate  
4 18 increase is filed with the commissioner. The notice  
4 19 to the insured shall state that the insured has a  
4 20 right to file a written objection to the rate increase  
4 21 and that the insured may appeal to the commissioner  
4 22 within thirty days after the commissioner has approved  
4 23 a rate increase.

4 24 2. After the filing of an application for an  
4 25 increase of any rate by an insurer under subsection 1,  
4 26 the commissioner, prior to the expiration of thirty  
4 27 days after the filing date, shall docket the case as a  
4 28 formal proceeding and set the case for hearing.

4 29 3. If, after the hearing, the commissioner finds  
4 30 the proposed rate increase to be unlawful, the  
4 31 commissioner shall by order authorize and direct the  
4 32 insurer to file a new or changed rate which, when  
4 33 approved by the commissioner and placed in effect,  
4 34 will satisfy the requirements of this chapter and this  
4 35 title.

4 36 4. An order of the commissioner made pursuant to  
4 37 this section shall be subject to judicial review as  
4 38 provided in chapter 17A.

4 39 5. The commissioner shall adopt rules pursuant to  
4 40 chapter 17A to administer this section.

4 41 Sec. 8. NEW SECTION. 519A.14 INSURANCE RATE ==  
4 42 ROLLBACK.

4 43 1. For any medical malpractice insurance policy  
4 44 underwritten by an insurer subject to this chapter  
4 45 issued or renewed on or after July 1, 2004, the  
4 46 insurer shall reduce its charges to levels which are  
4 47 twenty percent less than the charges for the same  
4 48 coverage which were in effect on July 1, 2003.

4 49 2. This section shall not apply to an affected  
4 50 insurer under this chapter who demonstrates on an  
5 1 actuarially sound basis that a reduction pursuant to  
5 2 subsection 1 would deny the affected insurer a fair  
5 3 return.

5 4 Sec. 9. NEW SECTION. 519A.15 NOTICE OF  
5 5 CANCELLATION AND NONRENEWAL == REASONS.

5 6 An insurer subject to this chapter shall not cancel  
5 7 or refuse to renew a policy of medical malpractice  
5 8 insurance issued individually underwritten by the  
5 9 insurer except by notice to the insured. Notice of  
5 10 cancellation or nonrenewal of a policy is not  
5 11 effective unless it is based on one or more of the  
5 12 following reasons:

5 13 1. Nonpayment of premium.

5 14 2. Fraud or misrepresentation affecting the policy  
5 15 or the presentation of a claim.

5 16 3. A determination by the commissioner that a  
5 17 continuation of a policy under this chapter would  
5 18 substantially increase the hazard insured against.>

5 19 #2. Title page, line 1, by striking the words  
5 20 and inserting the  
5 21 following: 5 22 insurance policies issued to>.

5 23  
5 24

5 25  
5 26 \_\_\_\_\_  
5 26 JOE BOLKCOM  
5 27 WILLIAM A. DOTZLER  
5 28 KEITH A. KREIMAN  
5 29 ROBERT E. DVORSKY  
5 30 JACK HOLVECK  
5 31 THOMAS G. COURTNEY  
5 32 AMANDA RAGAN  
5 33 DARYL BEALL  
5 34 MICHAEL E. GRONSTAL  
5 35 HERMAN C. QUIRMBACH  
5 36 HF 2440.711 80  
5 37 rh/gg

